



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OLEM-2018-0013, FRL- 9977-63-OEI]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Revisions to the RCRA Definition of Solid Waste (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Revisions to the RCRA Definition of Solid Waste (EPA ICR No. 2310.06, OMB Control No. 2050-0202) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. Public comments were previously requested via the *Federal Register* on February 26, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OLEM-2018-0013, to (1) EPA, either online using www.regulations.gov (our preferred method), or by email to rcra-docket@epa.gov, or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460; and (2) OMB via email to oir_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Tracy Atagi, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 703-308-8672; fax number: 703-308-8880; email address: atagi.tracy@epa.gov.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: In 2015, the EPA published final revisions to the definition of solid waste that exclude certain hazardous secondary materials from regulation. The information requirements help ensure that (1) entities operating under the regulatory exclusions contained in today's action are held accountable to the applicable requirements; (2) state inspectors can verify compliance with the restrictions and conditions of the exclusions when needed; and (3) hazardous secondary materials exported for recycling are actually handled as commodities abroad. The United States Court of Appeals for the District of Columbia Circuit on July 7, 2017, and amended on March 6, 2018, issued orders vacating certain provisions of the 2015 rule and reinstated corresponding provisions from the 2008 rule. The vacatur went into effect when the court issued its mandate on March 14, 2018. Paperwork requirements finalized in the 2015 rule, as amended by the court-issued mandate, include:

- Under the generator-controlled exclusion at 40 CFR 261.4(a)(23), the tolling contractor has to maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In addition, facilities performing the recycling of hazardous secondary materials under the generator-controlled exclusions at 40 CFR 261.4(a)(23) to maintain documentation of their legitimacy determination onsite.
- Under the transfer-based exclusion at 40 CFR 261.4(a)(24), a generator sending secondary hazardous materials to a facility that does not have a permit, would be required to conduct a “reasonable efforts” environmental audit of the receiving facility; and a hazardous secondary materials recycler must meet the following conditions: having financial assurance in place, having trained personnel, and meeting emergency preparedness and response conditions.
- Under the export requirements of the transfer-based exclusion at 40 CFR 261.4(a)(25), exporters of hazardous secondary material must provide notice and obtain consent of the receiving country, and file an annual report.
- Under the remanufacturing exclusion at 40 CFR 261.4(a)(27), both the hazardous secondary material generator and the remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments.
- Under the revised speculative accumulation requirement in 261.1(c)(8), all persons subject to the speculative accumulation requirements must label the storage unit by indicating the first date that the material began to be accumulated.

This ICR renewal does not include the burden associated with filling out form 8700-12 because that burden is included under OMB Control Number 2050-0024. The remaining burden will eventually be included in ICR 2050-0053, at which time this ICR will be discontinued.

Form Numbers: None.

Respondents/affected entities: Private business or other for-profit entities, as well as State, Local, or Tribal governments.

Respondent's obligation to respond: Required to obtain or retain a benefit (42 U.S.C. 6921, 6922, 6923, and 6924.)

Estimated number of respondents: 7,674

Frequency of response: On occasion

Total estimated burden: 34,883 hours per year. Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: \$2,752,557 (per year), which includes \$15,475 annualized capital or operation & maintenance costs.

Courtney Kerwin,

Director,

Regulatory Support Division.

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